IN THE CLAIMS

Please amend the claims as follows:

Claims 1-36 (Cancelled).

Claim 37 (Original): A video encoding apparatus to encode a video by MPEG-4, comprising:

an encoder to encode each VOP (video object plane) of the video;

a computation module configured to obtain the number of encoded bits generated by encoding a first VOP of the video;

a memory to store a threshold; and

a control module configured to compare the number of encoded bits of the first VOP with the threshold, and control the encoder to encode a second VOP to be encoded next to the first VOP as one of an intraframe encoded VOP, a forward predictive encoded VOP and a not_coded VOP when the number of encoded bits exceeds the threshold.

Claim 38 (Original): A video encoding apparatus to encode a video by MPEG-4, comprising:

an encoder to encode each VOP (video object plane) of the video;

a computation module configured to obtain the number of encoded bits generated by encoding a first VOP of the video;

a presume module configured to presume occupancy of a VBV buffer that is a virtual buffer of a virtual decoder side by using the number of encoded bits;

a control module configured to control the encoder to encode a second VOP to be encoded next to the first VOP as one of an intraframe encoded VOP, a forward predictive encoded VOP and a "not_coded" VOP, according to a change of the occupancy of the VBV

buffer.

Claim 39 (Cancelled).

Claim 40 (Original): A video encoding method comprising:

encoding each picture of a video by MPEG-4;

computing the number of encoded bits generated when encoding a first VOP (video object plane);

comparing the number of encoded bits of the first VOP with a threshold;

controlling the encoding to encode a second VOP to be encoded next to the first picture as one of a forward predictive encoded VOP, an intraframe encoded VOP and a not_coded VOP, when the number of encoded bits of the first VOP exceeds the threshold.

Claim 41 (Original): A video encoding method comprising:

encoding each VOP (video object plane) of a video by MPEG-4;

computing the number of encoded bits generated when encoding a first picture;

presuming occupancy of a VBV buffer that is a virtual buffer of a decoder side, by using the number of encoded bits,

controlling the encoding to encode a second VOP to be encoded next to the first VOP as one of a forward predictive encoded VOP, an intraframe encoded VOP and a not_coded VOP, according to a change of the occupancy of the VBV buffer.